HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION NO.14680 OF 2006

Between:

Vijay Kumar
. . .Petitioner

AND

The Kukatpally Municipality
. . .Respondent

Counsel for the Petitioner : Shri P.Veera Reddy

Counsel for the Respondent : Shri P.Radhakrishna

Dated: 14th September, 2006

: ORDER :

PER G.S.SINGHVI, CJ

In this petition, the petitioner has prayed for quashing notice dated 11.07.2006 issued by Commissioner, Kukatpally Municipality, Ranga Reddy District (respondent herein) requiring the petitioner to remove unauthorized construction raised in premises No.2-22-277/2 situated at Bhagyanagar colony, Kukatpally, Ranga Reddy district.

In the affidavit filed by him, the petitioner – A.Vijay Kumar Raju has averred that he had purchased a portion of the building which was constructed after obtaining the sanctioned plan. He has further averred that even though no deviation has been made from the sanctioned plan, the respondent issued the impugned notice for demolition of the so called unauthorized construction and that too without giving him action oriented notice and opportunity of hearing.

We have heard learned counsel for the parties and perused the record. Since the respondent has not controverted the fact that impugned notice was issued without complying with the rules of natural justice, we feel that ends of justice would be met by giving liberty to the petitioner to appear before the Commissioner and produce all the documents to show that he and the owner have not made any unauthorized construction with a further direction to the Commissioner to decide the same within a specified time frame.

Hence, the writ petition is disposed of with the following directions:

1) Within seven days from today, the petitioner shall appear

before the Commissioner and produce all documents to show that he and the owner have not raised any construction in violation of the sanctioned plan. He shall also be free to raise all legally permissible objections against notice dated 11.07.2006.

2) Within next two weeks, the Commissioner shall consider the objections and documents produced by the petitioner, hear him and pass appropriate order.

3) If the Commissioner comes to the conclusion that the petitioner has made unauthorized construction or any deviation has been made from the sanctioned plan, then he may order demolition of such illegal or unauthorized construction. However, such order shall not be given effect for a period of seven days within which the petitioner shall be free to avail appropriate legal remedy including the one by way of filing fresh petition.

Since the notice impugned in the writ petition was issued in furtherance of the direction given by the Division Bench, we direct that in future, the writ petitions filed in the matter of removal of unauthorized structure or illegal construction shall be listed before the Division Bench as per roster.

We also deem it proper to observe that before issuing notice for demolition, the concerned authorities of the municipality should comply with the rules of natural justice. This would go a long way to obviate unnecessary litigation.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY, J

Date: 14.09.2006

Note: The Court Officer is directed to give attested copies of this order to the learned counsel for the parties.

Kvni/bsc